

***United States Court of Appeals
for the
District of Columbia Circuit***



**TRANSCRIPT OF
RECORD**

BRIEF FOR PETITIONER AND JOINT APPENDIX

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

APRIL TERM, 1957

No. 13, 736

*United States Court of Appeals
For the
District of Columbia Circuit*

FILED MAY 6 1957

Joseph W. Stewart
CLERK

DISTRICT OF COLUMBIA,

Petitioner,

v.

**GENERAL FEDERATION OF WOMEN'S
CLUBS, INC.,**

Respondent.

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QUESTION PRESENTED

The question presented is: Whether Private Law 737 - 84th Congress, ch. 506 entitled "An Act To exempt from taxation certain property of the General Federation of Womens Clubs, Incorporated, in the District of Columbia", approved July 2, 1956, was effective to accomplish such purpose in respect to the fiscal year commencing July 1, 1956, and ending June 30, 1957?

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IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13, 736

DISTRICT OF COLUMBIA,

Petitioner,

v.

GENERAL FEDERATION OF WOMEN'S CLUBS,
INC.,

Respondent.

BRIEF FOR PETITIONER

JURISDICTIONAL STATEMENT

This is a proceeding to review a decision of the District of Columbia Tax Court holding that a real property tax in the amount of \$1,599.06 was erroneously assessed against respondent, and ordering a cancellation of such assessment (J.A. 6). The decision of the Tax Court was entered January 2, 1957 (J.A. 6). Petition for review of said decision by this Court was filed January 28, 1957 (J.A. 7).

The jurisdiction of this Court is invoked pursuant to the provisions of Section 5 of the Act of December 24, 1942, 56 Stat. 1089, ch. 826 (Section 47-801e, D.C. Code, 1951), and Section 4, Title IX of the District of Columbia Revenue Act of 1937, as amended, 52 Stat. 371, ch. 223 (Section 47-2404, D. C. Code, 1951, Supp V.).

PRELIMINARY STATEMENT

To clarify petitioner's position in this case, one aspect of the Tax Court's opinion should be commented upon. At pages 3 and 4 of its Findings of Fact and Opinion the Court said:

"In its' brief the respondent relies upon an additional ground to support the assessment. It is this: the Commissioners on June 19, 1956, approved the equalized valuations of real estate in the District, including the petitioner's property, and nothing that occurred thereafter could affect the taxability of the petitioner's property, - not even an act of Congress." (Underscoring supplied, J. A. 3.)

"* * * It seems to the Court that the respondent reads too much in contending that the Congregational Home case supports the principle or rule that the approval by the Commissioners of the valuations made by the Assistant Assessor destroyed the power

of Congress to exempt the petitioner's property, even when the exempting legislation is approved prior to, or at the beginning of the fiscal year involved. (1)

"(1) It was the contention of counsel for the respondent in oral argument that, even if the act of Congress here under consideration had been approved after June 19, but before June 30, 1956, the petitioner's real property would, nevertheless, be taxable for the fiscal year ending June 30, 1957." (J. A. 4.)

In the course of the hearing in this case, the following colloquy took place between the Tax Court and Counsel for petitioner:

"THE COURT: Let's suppose this bill had been signed on June 27th, for instance. Is it your contention that that could not have affected the assessment, that the property would still have been liable for the fiscal year beginning July 1, 1956? (J. A. 7.)

"MR. WIXON: It might well be, unless the Act of Congress specifically referred to that particular fiscal year, because presumably the Congress would know about the finality of the assessments of real estate taxes. The Court of Appeals has held that they are a finality and cannot be changed. I don't deny of course the authority of the Congress to change such a thing, but in the posture of the matter as you put it to me, I think it would be a very good question as to whether or not it was affected." (J. A. 7.)

These remarks constitute the sole reference to what the Tax Court has described as one of petitioner's contentions, whereas they do not, on the record, or in fact, represent petitioner's position in this case. At no time did petitioner, in the presentation of its case to the Tax Court, contend that any action by the Commissioners of

the District of Columbia in approving real property valuations would be effective to destroy the power of Congress to exempt real property from taxation.

STATEMENT OF THE CASE

Respondent (petitioner below) is a corporation organized under the laws of the District of Columbia. It owns and occupies real property located within the District, and identified in the land records as part of Lot 825 and all of Lot 837 in Square 159 in the city of Washington. (J.A. 1).

On June 19, 1956, the Board of Commissioners, D.C., pursuant to the obligation and authority contained in Section 47-709, D. C. Code, 1951, approved the equalized valuations of real property in the District for the fiscal year commencing July 1, 1956, and ending June 30, 1957. Respondent's real property was included as taxable. (J.A. 1.)

July 1, 1956, was a Sunday. On July 2, 1956, Private Law 737 - 84th Congress, ch. 506, was approved by the President. This law specifically exempts the real property of the General Federation from real property taxation so long as it is owned and occupied by respondent and is not used for commercial purposes. The law is not, by its terms, retroactive.

By letter dated July 18, 1956, the Assessor, D.C. advised respondent that inasmuch as Private Law 737 was not approved until

July 2, 1956, the real property of the Federation was in a taxable status as of the commencement of the fiscal year 1956-1957; that the exemption provided by Private Law 737 does not become effective until July 1, 1957 and, consequently, that tax bills for the fiscal year 1956-1957 would be rendered in the usual manner (J.A. 1-2). Accordingly, on or about September 1, 1956, the Assessor rendered and sent to respondent notice of assessment of the real property tax here involved for the fiscal year commencing on July 1, 1956, and ending on June 30, 1957 (J.A. 2). On September 27, 1956, respondent filed its petition in the District of Columbia Tax Court requesting relief from the real property taxes assessed (J.A. 8), and on January 2, 1957, the Tax Court held that Private Law 737 was effective to grant respondent an exemption from real property taxation in respect of its property for the fiscal year 1956-1957. Accordingly, the Tax Court entered an order cancelling the assessments (J.A. 6).

This appeal followed.

STATUTES AND CONSTITUTIONAL
PROVISIONS INVOLVED

Private Law 737 - 84th Congress, Chapter 506 approved July 2, 1956, ___ Stat. ___, entitled "An Act To exempt from taxation certain property of the General Federation of Womens Clubs, Incorporated, in the District of Columbia" provides, in pertinent part, as follows:

"That the real estate described as lots numbered 825 and 837, in square numbered 159 (excluding therefrom that part of lot numbered 825 lying south of a line from the southernmost portion of the main building running west to the wall), situated in the city of Washington, D. C., owned by the General Federation of Womens Clubs, Incorporated, is hereby exempt from all taxation so long as the same is owned and occupied by the General Federation of Womens Clubs, Incorporated, and is not used for commercial purposes, subject to the provisions of section 2, 3, and 5 of the Act entitled 'An Act to define the real property exempt from taxation in the District of Columbia', approved December 24, 1942 (56 Stat. 1091; D. C. Code, secs. 47-801b, 47-801c, and 47-801e)."

Article I, Section 7, Clause 2 of the Constitution of the United States provides, in pertinent part, as follows:

"Clause 2. * * *If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law."

Section 47-101, D. C. Code, 1951 (Act of the Legislative Assembly of August 22, 1871, ch. 65) provides:

"The fiscal year of the District of Columbia shall commence on the first day of July in each and every year until otherwise provided by law."

Section 47-709, D. C. Code, 1951, Supp. V (Act of August 14, 1894, 28 Stat. 282, ch. 287, as amended) provides, in pertinent part, as follows:

"* * *The valuation of said real property made and equalized as aforesaid shall be approved by the Commissioners not later than July 1, annually, and when approved by the Commissioners shall constitute the basis of taxation for the next succeeding year. * * *"

STATEMENT OF POINTS

The District of Columbia Tax Court erred as a matter of law:

(1) In holding that Private Law 737 - 84th Congress, Chapter 506 approved July 2, 1956, was effective to grant tax exemption to respondent's real property for the fiscal year commencing July 1, 1956 and ending June 30, 1957.

(2) In holding that Sunday, July 1, 1956 was a dies non, and that, in law, Monday, July 2, 1956, was the first day of the taxable year.

SUMMARY OF ARGUMENT

Private Law 737 was not effective to grant respondent an exemption from its real property taxes for the fiscal year commencing July 1, 1956, and ending June 30, 1957, because:

1. In the absence of an indication of congressional intent to the contrary, the status of property as to liability for, or exemption from, taxation remains throughout the tax year as it was at the beginning of such year. Here, respondent's property was in a taxable status as of July 1, 1956, its valuation for real property tax purposes having been approved by the Commissioners, D.C. on June 19, 1956. Nothing intervened during the period following the approval of the tax rolls up to and including the date fixed by statute for the commencement of the tax year, to alter respondent's tax status.

2. Private Law 737 was not approved by the President until

July 2, 1956, that is, until after the commencement of the fiscal year involved. It is not by its terms retroactive, nor does it provide for the abatement of respondent's tax liability for the fiscal year 1956-1957.

Consequently, and in accordance with the well established rule of statutory construction that unless expressly stated otherwise, a statute must be construed to be prospective in its operation and effect, Private Law 737 cannot be said to effect any change in respondent's tax status so far as the fiscal year July 1, 1956 to June 30, 1957 is concerned.

3. Congress is presumed to have knowledge of its prior enactments providing for the assessment and taxation of real property in the District of Columbia and that the Commissioners of the District are required by statute (Section 47-709, D. C. Code, 1951) to fix the basis of taxation not later than July first of each and every year. It follows that had Congress, being aware of the assessment statutes and procedures in force in the District of Columbia, intended to exempt respondent's property for the fiscal year involved here, or to abate any existing tax liability, it would have said so. It did not. Consequently, Private Law 737 must be applied prospectively. It is not effective to abate respondent's tax liability for the period here in question. Statutes exempting property from taxation must be strictly construed against the taxpayer.

The fiscal year of the District of Columbia is a creature of statute. Section 47-101, D. C. Code, 1951, states specifically that

the fiscal year shall commence on the first day of July in each and every year. Accordingly, Sunday, July 1, 1956, was the first day of the fiscal year 1957. The Tax Court's ruling that because July 1, 1956, fell on a Sunday, the fiscal year commenced on Monday, July 2, 1956, is unsupported in law. No authority exists for deferring the commencement of such a statutory period.

ARGUMENT

I

Respondent is not entitled, under Private Law 737, to exemption from real property taxation for the fiscal year 1956-1957.

Section 47-709, D. C. Code, 1951, Supp. V, provides, in pertinent part, as follows:

"* * *The valuation of said real property made and equalized as aforesaid shall be approved by the Commissioners not later than July 1, annually, and when approved by the Commissioners shall constitute the basis of taxation for the next succeeding year * * *".
(Underscoring supplied.)

In this case it is undisputed that the Commissioners approved the equalized valuations of real property in the District of Columbia on June 19, 1956, well in advance of the statutory deadline. Consequently, and because as this Court stated in Congregational Home of the District of Columbia v. District of Columbia, 92 U.S. App. D.C. 73, 76, 202 F. 2d 808:

"* * *once they [the Commissioners of the District of Columbia] have approved the equalized valuations of real estate subject to taxation, those valuations 'constitute the basis of taxation for the next succeeding year.' Taxability has then been finally determined, assessment has been completed, and the Commissioners have no further function except to fix a tax rate which will raise the required revenue." (1)

respondent's property was, as of June 19, 1956, in a taxable status and that status remained unchanged up to and including July 1, 1956, the first day of the fiscal year here in question. At that time, respondent's liability for the taxes here involved became fixed for, as the Board of Tax Appeals (now the District of Columbia Tax Court) held in Washington Mosque Foundation Inc. v. District of Columbia, 74 W.L.R. 1189:

"* * *In the absence of indication of legislative intent to the contrary, the status of property as to liability for, or exemption from, taxation remains throughout the tax year as it was at the beginning of each year unaffected by a change in the use of the property during the tax year.* * *". (2)

Respondent is, therefore, liable for the taxes assessed in this case unless Private Law 737 operated to exempt the property in question for the fiscal year 1956-1957.

(1) This principle is reiterated by this Court in Trustees of St. Paul Methodist Episcopal Church South v. District of Columbia, 94 U.S. App. D.C. 78, 81, 212 F. 2d 244, decided in 1954.

(2) Cited by the Board of Tax Appeals in support of its ruling are: Beckwill Realty Corporation v. New York, 254 N.Y. 425, 173 N.E. 570; Wildberger v. Shaw, 84 Miss. 442; 36 So. 639; Martin Company v. Drake, 40 Minn. 137, 41 N.W. 942; Mayor of Baltimore v. Jenkins, 96 Md. 192, 53 A. 930.

The President approved Private Law 737 on July 2, 1956. The Act is not by its terms retroactive, nor does it provide for the abatement of respondent's real property tax liability for the fiscal year here in question. The record is silent concerning the circumstances surrounding its passage by Congress, and nothing in the Act itself justifies giving it anything other than a prospective operation and effect. To do otherwise is to cause totally unnecessary damage to thoroughly settled doctrines of statutory construction.

It is a fundamental rule that in the absence of any provision to the contrary, an Act of Congress generally goes into effect on its passage. 82 C.J.S. 973. Further, it is a Constitutional tenet that the earliest moment at which such an act can be effective is from the time of its approval by the President. Article I, Section 7, Clause 2, Constitution of the United States, Burgess v. Salmon, 97 U.S. 381, 383, 24 L. Ed. 1104, Bristol Mfg. Corporation v. United States, Ct. Cl., 2 F. Supp. 781. Private Law 737 was approved July 2, 1956, and there can be no doubt that it became effective as of that day and not earlier.

In White v. United States, 191 U.S. 545, 552, 24 S. Ct. 171, 48 L. Ed. 295, the Supreme Court stated:

"* * *Where it is claimed that a law is to have a retrospective operation, such must be clearly the intention, evidenced in the law and its purposes, or the court will presume that the lawmaking power is acting for the future only, and not for the past; * * * Retrospective legislation is not favored. * * *".

To like effect see: Cameron v. United States, 231 U.S. 710, 34 S. Ct. 244, 58 L. Ed. 448; Claridge Apartments Co. v. Commissioner of Internal Revenue, 323 U.S. 141, 65 S. Ct. 176, 89 L. Ed. 139, Reynolds v. United States, 292 U.S. 443, 54 S. Ct. 800, 78 L. Ed. 1353. And in Cox v. Hart, 260 U.S. 427, 43 S. Ct. 154, 67 L. Ed. 332, the Court held that all statutes are to be considered prospective unless their language is expressly to the contrary, or there is a necessary implication to that effect.

Here, the statute in question is silent on the matter of its operation and effect, and the record reveals no basis for any implication that it be construed retrospectively. Instead, there is strong reason to the contrary.

In the body of the Act, Congress refers to sections 2, 3, and 5 of the act entitled "An Act to define the real property exempt from taxation in the District of Columbia", approved December 24, 1942 (56 Stat. 1091; Sections 47-801b, 47-801c, and 47-801e, D. C. Code, 1951). Although the substance of the particular reference is immaterial for present purposes, the reference itself indicates clearly that in enacting Private Law 737, Congress was well aware of its prior enactments relating to the taxation of real property in the District. Congress is presumed to have such knowledge. It follows that Congress was alert to the provisions of Section 47-709, D. C. Code, 1951 and to this Court's interpretation of that section in The Congregational Home and Trustees of St. Paul Methodist Episcopal Church South cases, supra. If it had intended

to do so, Congress would have specifically provided for the abatement of the taxes here in question.⁽³⁾ And in the absence of such specific abatement Private Law 737 must be regarded as prospective in operation. It can have no effect upon respondent's liability for the taxes here involved. In the interest of sound tax policy, and having regard for the interest of the tax-paying community, exemption statutes such as Private Law 737 must be strictly construed against the claimant and in favor of the taxing authority. Phoenix Fire and Marine Ins. Co. v. Tennessee, 161 U.S. 174, 16 S. Ct. 471, 40 L. Ed. 660; Washington Chapter of the American Institute of Banking v. District of Columbia, 92 U.S. App. D.C. 139, 203 F. 2d 68.

(3) It is significant to note that in several special exemption bills now pending before the Congress such as H.R. 4874, a bill to amend the Act of July 2, 1956, entitled "An Act to exempt from taxation certain property of the Columbia Historical Society in the District of Columbia", specific provision is made for the abatement of taxes levied or assessed, and not paid at the time of the approval of the Act, as follows:

"Sec. 3. Every Federal or District of Columbia tax of any kind not paid at the time of the approval of this Act, heretofore levied or assessed against said Columbia Historical Society, or against any property, real or personal, owned by it, or in respect of any property, real or personal, conveyed, devised, or bequeathed to said society, together with any interest or penalty thereon, is hereby abated."

II

The fiscal year 1957 commenced on Sunday,
July 1, 1956, and not, as the Tax Court
held, on Monday, July 2, 1956.

Section 47-101, D. C. Code, 1951, provides specifically as follows:

"The fiscal year of the District of Columbia shall commence on the first day of July in each and every year until otherwise provided by law." (Underscoring supplied.)

Its purpose is to establish a date certain, a fixed point in time for the fiscal operations of the District of Columbia Government. The interests of both the taxpayer generally and the taxing authority demand that such a date be absolutely fixed, for when, as here, such a date is sought to be made movable to suit the momentary convenience of a particular taxpayer, a measure of uncertainty is introduced into an area in which precision as to time is fundamentally imperative.

What the Tax Court has done in this case is, in effect, to add to the statute the words "provided that where the first day of July occurs on a Sunday, the fiscal year shall commence on the regular business day next following". No authority exists for such a modification of so basic a statute. In its opinion, that Court relies upon a line of cases including Street v. United States, 133 U.S. 299, 10 S. Ct. 309, 33 L. Ed. 631 and Sherwood Brothers Inc. v. District of Columbia, 72 U.S. App. D.C. 155, 113 F. 2d 162. It admits that the rule there enunciated has reference to instances in which the final date set for the taking of a particular action falls on a

Sunday, but the Court then proceeds to invert the rule so that it may apply where the first day of such a period falls on a Sunday. In this case, however, we are not concerned with a time limitation upon the doing of an act. Instead, we are confronted with an attempt to defer the commencement of a fixed statutory period, the fiscal year of the District of Columbia. Counsel for petitioner have been unable to find any legal precedent for such a deferment.

Finally, in the course of the proceedings below, respondent stated that Private Law 737 was sent to the President on June 25, 1956. Consequently, the President had until July 6, 1956, to act on the legislation. It is clear, therefore, that the rule of the Sherwood Brothers case, supra, could have no application in respect to the time limited by Article I, Section 7, Clause 2 of the Constitution of the United States for action by the President. The Act was approved on July 2, 1956, well in advance of the constitutional deadline.

CONCLUSION

The taxable status of respondent's real property became fixed as of July 1, 1956. Private Law 737 was approved on July 2, 1956, and must, in accordance with settled doctrines of statutory construction, especially applicable to tax exemption statutes, be given a prospective effect. No authority exists for the deferment of the commencement of the tax year. The decision of the District of Columbia Tax Court should

be reversed.

Respectfully submitted,

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JOINT APPENDIX

IN THE
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No. 13, 736

DISTRICT OF COLUMBIA, Petitioner,

v.

GENERAL FEDERATION OF WOMEN'S CLUBS,
INCORPORATED, Respondent.

ON PETITION FOR REVIEW OF A DECISION OF
THE DISTRICT OF COLUMBIA TAX COURT

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FINDINGS OF FACT AND OPINION

The real property of the petitioner was assessed a real estate tax, of which the petitioner complains. It contends that by an Act of Congress its real property is exempt from taxation for the fiscal year here involved.

Findings of Fact

1. The petitioner is a District of Columbia corporation, with its office at 1734 N Street, Northwest, Washington, D. C.

2. The petitioner is the owner of a parcel of real estate located in the City of Washington, District of Columbia, consisting of a part of Lot 825 and Lot 837 in Square 159.

3. By Private Law 737 - 84th Congress, Chapter 506 - 2d Session (H. R. 8493) approved on Monday, July 2, 1956, the aforesaid real property of the petitioner was exempt from taxation in the District of Columbia.

4. For the fiscal year ended June 30, 1956, and for the fiscal years prior thereto the aforesaid real property was assessed real estate taxes.

5. On June 19, 1956, the Board of Commissioners of the District of Columbia approved the equalized valuations of real estate, including the aforesaid real estate of the petitioner.

39 6(a). On July 18, 1956, the Assessor of the District of Columbia wrote to the petitioner the letter following:

"General Federation of Women's Clubs, Inc.,
1734 N Street N.W.
Washington, D.C.

"Dear Madam:

"Private Law 737 - 84th Congress, approved July 2, 1956, provides for the exemption from real estate taxes, certain property in the District of Columbia and owned by the Federation, namely, part of Lot 825 and all of Lot 837 in Square 159. The records in this office have been noted accordingly.

"Inasmuch as the above law was not approved until July 2, 1956, the property was in a taxable status as of July 1, 1956, the beginning of the tax year, and therefore the exemption does not become effective until July 1, 1957. Bills for the fiscal year 1957 will be rendered in the usual manner and are payable one half in September and one half the following March.

"Very truly yours,

S/ James L. Martin
Assessor, D.C."

(b) Thereafter, on or about September 1, 1956, the Assessor rendered and sent to the petitioner notice of assessment of real estate taxes for the fiscal year commencing on July 1, 1956, and ending on June 30, 1957, as follows:

On part of Lot 825, Square 159	\$1,252.48
On Lot 837, Square 159	346.58
Total	<u>\$1,599.06</u>

(c) Such tax has not been paid.

7. This proceeding was filed on September 27, 1956.

Opinion

The sole question here presented is whether an act of Congress exempting the petitioner's real property from taxation in the District of Columbia, approved on July 2, 1956, was effective to accomplish such purpose in respect to the fiscal year commencing July 1, 1956, and ending on June 30, 1957.

40 Apparently, the petitioner's officer or agent communicated with the Assessor sometime prior to July 18, 1956, either requesting or concerning exemption of its' property, because on that day the Assessor replied and informed the petitioner that the property would be taxed, regardless of the Act of Congress for the expressed reason that it was not approved until July 2, 1956, and that since the status of the petitioner's property was taxable on July 1, 1956, such status would continue until June 30, 1957.

In its' brief the respondent relies upon an additional ground to support the assessment. It is this: the Commissioners on June 19, 1956, approved the equalized valuations of real estate in the District, including the petitioner's property, and nothing that occurred thereafter could affect the taxability of the petitioner's property, - not even an act of Congress. In taking such position the respondent relies on Section 47-709, D.C. Code, 1951 Edition, and upon the opinion of the United States Court of Appeals in Congregational Home v. District of

Columbia, 92 U.S. App. D.C., 73, 202 F. 2d 808. The Court does not believe that such authorities are effective for the denial of exemption in this case. Section 47-709 of the Code merely provides that when the valuations of real estate have been approved they shall be the basis upon which the taxes are to be assessed and the figures to which the rate of taxation is to be applied. As the Court reads the Congregational Home case it lays down the rule that the Commissioners are to approve the valuation of real estate, and that, inferentially at least, in the process they have the right to grant exemption, and that when they have acted their functions are completed, and, what was really pertinent and important in that case, that the Commissioners cannot grant exemption after they have acted or, certainly, not after July 1, 1956. It seems to the Court that the respondent reads too much in contending that the Congregational Home case supports the principle or rule that the approval by the Commissioners of the valuations made by the Assistant Assessor destroyed the power of Congress to exempt the petitioner's property, even when the exempting legislation is approved prior to, or at the beginning of the fiscal year involved.⁽¹⁾

The other ground for taxability advanced by the respondent's counsel and by the Assessor in his letter of July 18, 1956, is that since the

(1) It was the contention of counsel for the respondent in oral argument that, even if the act of Congress here under consideration had been

exempting statute was not approved by the President until July 2, 1956, it could not be said that the property was exempt on the tax day or the first day of the taxable year. There is then invoked the general rule that the status of the property for the entire taxable year is to be determined by what it was on the first day thereof. Washington Mosque Foundation, Inc. v. District of Columbia, 74 W.L.R. 1189. The fact is, however, that July 1, 1956, was Sunday, and that the Act of Congress exempting the petitioner's real property was approved by the President on Monday, July 2, 1956. The Court is of the opinion that the legislation thus approved was effective to grant exemption to the petitioner's property for the succeeding fiscal year ending June 30, 1957. Sunday, July 1, 1956, was a dies non. In law Monday, July 2, was the first day of the taxable year. Sherwood Bros. Inc. v. District of Columbia, 72 App. D.C. 155, 113 F. 2d 162; Street v. United States, 133 U.S. 299, 10 S. Ct. 309, 33 L. Ed. 631; Monroe Cattle Co. v. Becker, 147 U.S. 47, 13 S. Ct. 217, 37 L. Ed. 72. Wayne v. Burke, 61 A. 2d 714; Willis v. George Washington Life Ins. Co., 112 A. 2d 240. While it is true that in the cases cited the Sunday that was held to be a dies non occurred at the end of the particular period, the Court can see no reason why a Sunday at the beginning of a taxable period should not be so held. To hold otherwise in this case would, in the opinion of this Court be a miscarriage of justice and a

(1) Cont'd.) approved after June 19, but before June 30, 1956, the petitioner's real property would, nevertheless, be taxable for the fiscal year ending June 30, 1957.

thwarting of the intention of Congress.

42 For the reasons stated the Court holds that a real estate tax for the fiscal year ending June 30, 1957, in the amount of \$1,252.48, assessed against part of Lot 825 in Square 159, Washington, D.C., belonging to the petitioner, and a like tax in the amount of \$346.58, assessed against Lot 837 in Square 159, Washington, D.C., belonging to the petitioner, were erroneously assessed; and that such assessments are hereby cancelled.

Decision will be entered for the petitioner.

/s/Jo. V. Morgan

Jo. V. Morgan,
Judge.

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43 FILED JAN 2 1957

DISTRICT OF COLUMBIA TAX COURT

DECISION

This proceeding came on to be heard upon the petition filed herein; and upon consideration thereof, and of the evidence adduced at the hearing on said petition, it is by the Court, this 2nd day of January, 1957,

ADJUDGED AND DETERMINED, that a real estate tax for the fiscal year ending June 30, 1957, in the amount of \$1,252.48, assessed against part of Lot 825 in Square 159, Washington, D.C., belonging to the petitioner, and a like tax in the amount of \$346.58, assessed against Lot 837 in Square 159, Washington, D.C., belonging to the petitioner,

were erroneously assessed; and that such assessments are hereby cancelled.

/s/Jo. V. Morgan

Jo. V. Morgan,
Judge.

*

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EXCERPTS FROM THE TRANSCRIPT OF PROCEEDINGS

33 THE COURT: Let's suppose this bill had been signed on June 27th, for instance. Is it your contention that that could not have affected the assessment, that the property would still have been liable for the fiscal year beginning July 1, 1956?

MR. WIXON: It might well be, unless the Act of Congress specifically referred to that particular fiscal year, because presumably the Congress would know about the finality of the assessments of real estate taxes. The Court of Appeals has held that they are a finality and cannot be changed. I don't deny of course the authority of the Congress to change
34 such a thing, but in the posture of the matter as you put it to me, I think it would be a very good question as to whether or not it was affected.

*

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*

44 FILED JAN 28 1957

DISTRICT OF COLUMBIA TAX COURT

PETITION FOR REVIEW OF A DECISION OF THE DISTRICT
OF COLUMBIA TAX COURT

To the Honorable Chief Judge and Circuit Judges of the United States
Court of Appeals for the District of Columbia Circuit:

1. The District of Columbia, a municipal corporation, petitions for review by the United States Court of Appeals for the District of Columbia Circuit, of the decision of the District of Columbia Tax Court made in the above-entitled proceedings.

2. The decision of which review is sought cancelled an assessment of District of Columbia real property taxes for the fiscal year 1957 in the amount of \$1599.06.

3. The decision of the District of Columbia Tax Court was entered on January 2, 1957.

	*	*	*
1	<u>DOCKET</u>		
Date	Proceedings	Memorandum	
1956			
Sept. 27	Petition filed. Taxpayer served. Copies mailed to Corporation Counsel and Assessor, D.C.	Real Estate Tax	
Oct. 30	Hearing set for Nov. 26. All parties notified.		
Nov. 26	Case continued to Nov. 30.		
Nov. 30	Hearing - Henry E. Wixon representing District.		
Dec. 6	Petitioner's memorandum. Corporation Counsel served.		
Dec. 14	Brief filed by respondent - certificate of service.		
1957			
Jan. 2	Findings of Fact, Opinion and Decision.		
Jan. 28	Petition for Review filed by District - Certificate		

of service.

Feb. 6

Statement of Points and Designation of Record
Certificate of Service.

17
BRIEF FOR RESPONDENT

IN THE
United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13,736

DISTRICT OF COLUMBIA, *Petitioner,*

v.

GENERAL FEDERATION OF WOMEN'S CLUBS, INC.,
Respondent.

On Petition for Review of an Order of the
United States Court of Appeals
For the District of Columbia Circuit
District of Columbia Tax Court

FILED MAY 28 1957

Joseph W. Stewart
CLERK

HENRY M. FOWLER,
LESLIE B. WRIGHT,
Attorneys for Respondent,
1133 Investment Building,
Washington 5, D. C.

QUESTION PRESENTED

Whether action of the Commissioners of the District of Columbia in approving real property valuations of taxes assessed against property of General Federation of Women's Clubs, Incorporated, in the District of Columbia supersedes Act of Congress exempting said property from all taxation.

Whether Private Law 737—84th Congress, ch. 506 entitled "An Act to exempt from taxation certain property of the General Federation of Women's Clubs, Incorporated, in the District of Columbia" approved July 2, 1956, was effective to accomplish such purpose in respect to the fiscal year commencing July 1, 1956 and ending June 30, 1957.

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IN THE
United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13,736

DISTRICT OF COLUMBIA, *Petitioner,*

v.

GENERAL FEDERATION OF WOMEN'S CLUBS, INC.,
Respondent.

On Petition for Review of an Order of the
District of Columbia Tax Court

BRIEF FOR RESPONDENT

COUNTER STATEMENT OF THE CASE

This is a proceeding to review a decision of the District of Columbia Tax Court holding that a real property tax in the amount of \$1,599.06 was erroneously assessed against respondent, and ordering a cancellation of such assessment. (J.A. 1).

The respondent is a non profit educational and philanthropic organization and owns and occupies as its headquarters part of Lot 825 and all of Lot 837 in Square 159 in the District of Columbia.

On June 19, 1956, the Board of Commissioners for the District of Columbia, approved the equalized valuations of real property in the District of Columbia, including respondent's property, for the fiscal year commencing July 1, 1956 and ending June 30, 1957. (J.A. 1).

H.R. 8493, known as Private Law 737—84th Congress, Ch. 506, was passed by the House of Representatives on March 26, 1956 and by the U. S. Senate on June 20, 1956 and approved by the President on July 2, 1956.

July 1, 1956 was a Sunday. The following day, Monday, July 2, 1956, Private Law 737—84th Congress, ch. 506, was signed and approved by the President. This law specifically exempts the real property of the respondent, General Federation of Women's Clubs, Inc., from all real property taxation so long as it is owned and occupied by respondent and is not used for commercial purposes.

Notwithstanding Private Law 737—84th Congress, Ch. 506, exempting respondent's property, the Assessor for the District of Columbia advised respondent, by letter dated July 18, 1956, that inasmuch as Private Law 737 was not approved by the President until July 2, 1956, the real property of respondent was in a taxable status as of the commencement of the fiscal year July 1, 1956 and ending June 30, 1957 and that the exemption provided by Private Law 737 did not become effective until July 1, 1957, and consequently, tax bills for the fiscal year July 1, 1956—June 30, 1957 would be rendered in the usual manner. (J.A. 1-2).

Accordingly, on or about September 1, 1956, the Assessor rendered and sent respondent notice of assessment of the real property tax here involved for the fiscal year commencing on July 1, 1956 and ending June 30, 1957 (J.A. 2).

On September 27, 1956 respondent filed its petition in the District of Columbia Tax Court requesting relief from the real property taxes assessed (J.A. 8), and on January 2, 1957, the Tax Court held that Private Law 737 was effective to grant respondent an exemption from all real property taxation in respect of its property for the fiscal year July 1, 1956 to June 30, 1957. Accordingly the Tax Court entered an order cancelling the assessments (J.A. 6).

STATUTE INVOLVED

Private Law 737—84th Congress, Chapter 506 approved July 2, 1956, entitled "An Act To exempt from taxation certain property of the General Federation of Women's Clubs, Incorporated, in the District of Columbia" which provides as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the real estate described as lots numbered 825 and 837, in Square numbered 159 (excluding therefrom that part of lot numbered 825 lying south of a line from the southernmost portion of the main building running west to the wall), situated in the city of Washington, D. C., owned by the General Federation of Womens Clubs, Incorporated, is hereby exempt from all taxation so long as the same is owned and occupied by the General Federation of Womens Clubs, Incorporated, and is not used for commercial purposes, subject to the provisions of section 2, 3, and 5 of the Act entitled 'An Act to define the real property exempt from taxation in the District of Columbia', approved December 24, 1942 (56 Stat. 1091; D.C. Code, secs. 47-801c, and 47-801e)".

SUMMARY OF ARGUMENT

Private Law 737 was immediately effective to grant respondent exemption from all real property taxation for the fiscal year commencing July 1, 1956 and ending June 30, 1957.

The District of Columbia Tax Court was correct in its findings that the real property of respondent was exempt from its real property taxes for the fiscal year commencing July 1, 1956 and ending June 30, 1957, and that taxes assessed against respondent were erroneously assessed and ordering that said assessments be cancelled.

Sunday July 1, 1956 was a dies non and the signing and approving of Private Law 737 by the President on Monday, July 2, 1956, without question made the law effective to exempt the respondent from the erroneous assessment of taxes made by the Assessor of the District of Columbia for the fiscal year beginning July 1, 1956 and ending June 30, 1957.

No action of or by the Commissioners of the District of Columbia in approving real estate valuations on respondent's real property would be effective to destroy the power of Congress by its Act exempting respondent's property from all taxation.

ARGUMENT

Respondent is entitled, under Private Law 737, 84th Congress, Chapter 506—2d Session, to exemption from all real property taxation for the fiscal year July 1, 1956-June 30, 1957

Petitioner predicates its whole case and argument on the premise that due to the fact the Commissioners of the District of Columbia approved the equalized valuations of real property in the District of Columbia on June 19, 1956 for the fiscal year commencing July 1, 1956 and ending June 30, 1957, and that the assessments of real estate are a finality, Congress had no power to exempt respondent from taxation by its Act approved by the President on July 2, 1956.

Congress by its Act, Private Law 737, said in unequivocal words, "That the real estate described as lots 825 and 837, in square numbered 159 (excluding therefrom that part of lot numbered 825 lying south of a line from the southern-

most portion of the main building running west to the wall) situated in Washington, D. C., owned by the General Federation of Women's Clubs, Inc., is hereby exempt from all taxation so long as the same is owned and occupied by the General Federation of Women's Clubs, Inc., and is not used for commercial purposes * * * ”.

This Act was approved by the President on July 2, 1956. Can it be argued by petitioner that the Commissioners of the District of Columbia can ignore this Act and assess respondent for taxes for a whole year subsequent thereto? No.

We are not concerned with looking at this case in a prospective or retrospective light. The fact remains that Congress plainly said that the General Federation of Women's Clubs, Inc., are exempt from all taxation. Can there be any doubt about that? No.

Can it be said that any action by the Commissioners of the District of Columbia in approving real property valuations would be effective to destroy the power of Congress to exempt real property from taxation? No. Petitioner stated in its preliminary statement, pages 3-4, “At no time did petitioner, in the presentation of its case to the Tax Court, contend that any action by the Commissioners of the District of Columbia in approving real property valuations would be effective to destroy the power of Congress to exempt real property from taxation”.

What did counsel for petitioner say when the Tax Court asked this question: “Let's suppose this bill had been signed on June 27th, for instance. Is it your contention that that could not have affected the assessment, that the property would still have been liable for the fiscal year beginning July 1, 1956?” Mr. Wixon: “* * * I don't deny of course the authority of Congress to change such a thing”. (J.A. 7).

Great stress is laid by the petitioners on the fact that the Act is not by its terms retroactive, nor does it pro-

vide for the abatement of respondent's real property tax liability for the fiscal year starting July 1, 1956. And stress is laid upon the fact that the Bill was not signed by the President until Monday, July 2, 1956, one day after the fiscal year started. If this be important, we maintain that the signing of the Bill on Monday, July 2, 1956 by the President would nevertheless exempt respondent from any tax liability which may have been assessed as of July 1, 1956. July 1, 1956 fell on Sunday and was a dies non.

Sec. 47-709, D. C. Code 1951, Supp. V (Act of August 14, 1894, 28 Stat. 282, ch. 287, as amended) provides as follows:

“* * * The valuation of said real property made and equalized as aforesaid shall be approved by the Commissioners not later than July 1, annually, and when approved by the Commissioners shall constitute the basis for taxation for the next succeeding year.”

This section merely states that this shall constitute the basis for taxation. It does not say that Congress cannot exempt one from such taxation.

Congress, in sum and substance in Private Law 737, says notwithstanding the Commissioners' approval of the valuation of taxes to be assessed against the General Federation of Women's Clubs, Inc. that their property is exempt of all taxation.

As to the contention of petitioners that in view of the fact the President did not sign the Act until July 2, 1956 instead of July 1, 1956 the exemption could not apply to valuations approved by the Commissioners for the fiscal year starting July 1, 1956, the principle is well established that intervals of time are to be computed in such manner that Sundays are to be excluded.

Endlich on Statutes, Sec. 393:

The rule, that, where the last of a certain number of days allowed for doing an act falls on Sunday,

the act may be done on the next day, has been by statute, in many states, made a rule of statutory construction, but it appears even without such distinct enactment, to be very generally recognized as such.

In *Street v. U. S.*, 133 U.S. 306, the Court said: "Again it must be noticed that the first day of January was Sunday, that is, a dies non, and a power that may be exercised up to and including a given day of the month may generally, when that day happens to be Sunday, be exercised on the succeeding day."

In *Sherwood Bros., Inc. v. District of Columbia*, 72 App. D.C. 155: Sherwood had 90 days to file claim with the Board of Tax Appeals for refund of taxes paid by Sherwood under protest. The 90th day of the statutory period for filing claim for refund fell on Sunday, and was filed with the Board on Monday. The single question presented was whether petitioner filed its claim for refund within the 90 day period specified by the statute for doing so as a condition of recovering taxes paid under protest. In this case the Court held: "That the act could be done on Monday where the last day upon which it should have been done falls on Sunday".

The Court in the Sherwood case said: "This is the common law rule and it has become embedded in the habits and customs of the community, both from respect for religious considerations and by long-established legal and commercial tradition. Many states have enacted statutes for computation of time, which expressly exclude the final Sunday. The Federal Rules of Civil Procedure, 28 U.S.C.A. following section 723c, do likewise. Rule 6(a). And the only decisions of the Supreme Court bearing on the problem which have come to our attention follow the same rule. *Street v. United States*, 133 U.S. 299, 10 S. Ct. 309, 33 L. Ed. 631; *Monroe Cattle Co. v. Becker*, 147 U.S. 47, 13 S. Ct. 217, 37 L. Ed. 72.

The Court said further in the *Sherwood* case: "It has the support, therefore, of controlling authority, as well as of tradition, fairness and convenience. * * * It does not appear that time is of such essence in regard to these claims that any rightful interest of the Government will be prejudiced by excluding the final Sunday when the last day falls on Sunday. * * * We think also that this construction does no violence to the intention of Congress, but on the contrary more nearly complies with it than would the opposite one".

Monroe Cattle Co. v. Becker, 147 U.S. 47, 13 S. Ct. 217, 37 L. Ed. 72. In this case the Court said: "As the 90th day fell on Sunday, the lands were not open to another application until Monday, the general rule being that, when an act is to be performed within a certain number of days, and the last day falls on Sunday, the person charged with the performance of the act has the following day to comply with his obligation".

In *Wayne v. Burke*, 61 A. 2d 714, a petition was filed to review order of Rent Administrator for the District of Columbia. Motion to dismiss was filed on the ground that said petition was not filed timely. In this case the period for filing expired on August 22, 1948 said day being a Sunday, the petition having been filed on the following day, Monday, August 23, 1948. The Court ruled that Sunday, being a dies non, petitioner was within his rights in filing the petition the following day, Monday.

In *Willis v. George Washington Life Insurance Company*, 112 A. 2d 240, the Court held: "That where ten day period prescribed by rules for filing notice of appeal expired on Sunday, a dies non, notice of such appeal could be filed on the next day, Monday."

CONCLUSION

That Private Law 737—84th Congress, Chapter 506—2nd Session fully exempted respondent's real property from all taxation for the fiscal year commencing July 1, 1956 and ending June 30, 1957 and that the decision of the District of Columbia Tax Court should be affirmed.

Respectfully submitted,

HENRY M. FOWLER,

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Attorneys for Respondent,

1133 Investment Building,

Washington 5, D. C.

BRIEF FOR PETITIONER AND JOINT APPENDIX

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

APRIL TERM, 1957

No. 13, 736

*United States Court of Appeals
For the
District of Columbia Circuit*

FILED MAY 6 1957

Joseph W. Stewart
CLERK

DISTRICT OF COLUMBIA,

Petitioner,

v.

**GENERAL FEDERATION OF WOMEN'S
CLUBS, INC.,**

Respondent.

887

**CHESTER H. GRAY,
Corporation Counsel, D. C.,
MILTON D. KORMAN,
Principal Assistant Corporation
Counsel, D. C.,
HENRY E. WIXON,
Assistant Corporation Counsel, D. C.,
OWEN J. MALONE,
Assistant Corporation Counsel, D. C.,
Attorneys for Petitioner,
District Building,
Washington 4, D. C.**

QUESTION PRESENTED

The question presented is: Whether Private Law 737 - 84th Congress, ch. 506 entitled "An Act To exempt from taxation certain property of the General Federation of Womens Clubs, Incorporated, in the District of Columbia", approved July 2, 1956, was effective to accomplish such purpose in respect to the fiscal year commencing July 1, 1956, and ending June 30, 1957?

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**IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

No. 13, 736

DISTRICT OF COLUMBIA,

Petitioner,

v.

**GENERAL FEDERATION OF WOMEN'S CLUBS,
INC.,**

Respondent.

BRIEF FOR PETITIONER

JURISDICTIONAL STATEMENT

This is a proceeding to review a decision of the District of Columbia Tax Court holding that a real property tax in the amount of \$1, 599.06 was erroneously assessed against respondent, and ordering a cancellation of such assessment (J.A. 6). The decision of the Tax Court was entered January 2, 1957 (J.A. 6). Petition for review of said decision by this Court was filed January 28, 1957 (J.A. 7).

The jurisdiction of this Court is invoked pursuant to the provisions of Section 5 of the Act of December 24, 1942, 56 Stat. 1089, ch. 826 (Section 47-801e, D.C. Code, 1951), and Section 4, Title IX of the District of Columbia Revenue Act of 1937, as amended, 52 Stat. 371, ch. 223 (Section 47-2404, D. C. Code, 1951, Supp V.).

PRELIMINARY STATEMENT

To clarify petitioner's position in this case, one aspect of the Tax Court's opinion should be commented upon. At pages 3 and 4 of its Findings of Fact and Opinion the Court said:

"In its' brief the respondent relies upon an additional ground to support the assessment. It is this: the Commissioners on June 19, 1956, approved the equalized valuations of real estate in the District, including the petitioner's property, and nothing that occurred thereafter could affect the taxability of the petitioner's property, - not even an act of Congress." (Underscoring supplied, J. A. 3.)

"* * * It seems to the Court that the respondent reads too much in contending that the Congregational Home case supports the principle or rule that the approval by the Commissioners of the valuations made by the Assistant Assessor destroyed the power

of Congress to exempt the petitioner's property, even when the exempting legislation is approved prior to, or at the beginning of the fiscal year involved. (1)

"(1) It was the contention of counsel for the respondent in oral argument that, even if the act of Congress here under consideration had been approved after June 19, but before June 30, 1956, the petitioner's real property would, nevertheless, be taxable for the fiscal year ending June 30, 1957." (J. A. 4.)

In the course of the hearing in this case, the following colloquy took place between the Tax Court and Counsel for petitioner:

"THE COURT: Let's suppose this bill had been signed on June 27th, for instance. Is it your contention that that could not have affected the assessment, that the property would still have been liable for the fiscal year beginning July 1, 1956? (J. A. 7.)

"MR. WIXON: It might well be, unless the Act of Congress specifically referred to that particular fiscal year, because presumably the Congress would know about the finality of the assessments of real estate taxes. The Court of Appeals has held that they are a finality and cannot be changed. I don't deny of course the authority of the Congress to change such a thing, but in the posture of the matter as you put it to me, I think it would be a very good question as to whether or not it was affected." (J. A. 7.)

These remarks constitute the sole reference to what the Tax Court has described as one of petitioner's contentions, whereas they do not, on the record, or in fact, represent petitioner's position in this case. At no time did petitioner, in the presentation of its case to the Tax Court, contend that any action by the Commissioners of

the District of Columbia in approving real property valuations would be effective to destroy the power of Congress to exempt real property from taxation.

STATEMENT OF THE CASE

Respondent (petitioner below) is a corporation organized under the laws of the District of Columbia. It owns and occupies real property located within the District, and identified in the land records as part of Lot 825 and all of Lot 837 in Square 159 in the city of Washington. (J. A. 1).

On June 19, 1956, the Board of Commissioners, D. C., pursuant to the obligation and authority contained in Section 47-709, D. C. Code, 1951, approved the equalized valuations of real property in the District for the fiscal year commencing July 1, 1956, and ending June 30, 1957. Respondent's real property was included as taxable. (J. A. 1.)

July 1, 1956, was a Sunday. On July 2, 1956, Private Law 737 - 84th Congress, ch. 506, was approved by the President. This law specifically exempts the real property of the General Federation from real property taxation so long as it is owned and occupied by respondent and is not used for commercial purposes. The law is not, by its terms, retroactive.

By letter dated July 18, 1956, the Assessor, D. C. advised respondent that inasmuch as Private Law 737 was not approved until

July 2, 1956, the real property of the Federation was in a taxable status as of the commencement of the fiscal year 1956-1957; that the exemption provided by Private Law 737 does not become effective until July 1, 1957 and, consequently, that tax bills for the fiscal year 1956-1957 would be rendered in the usual manner (J.A. 1-2). Accordingly, on or about September 1, 1956, the Assessor rendered and sent to respondent notice of assessment of the real property tax here involved for the fiscal year commencing on July 1, 1956, and ending on June 30, 1957 (J.A. 2). On September 27, 1956, respondent filed its petition in the District of Columbia Tax Court requesting relief from the real property taxes assessed (J.A. 8), and on January 2, 1957, the Tax Court held that Private Law 737 was effective to grant respondent an exemption from real property taxation in respect of its property for the fiscal year 1956-1957. Accordingly, the Tax Court entered an order cancelling the assessments (J.A. 6).

This appeal followed.

STATUTES AND CONSTITUTIONAL
PROVISIONS INVOLVED

Private Law 737 - 84th Congress, Chapter 506 approved July 2, 1956, ___ Stat. ___, entitled "An Act To exempt from taxation certain property of the General Federation of Womens Clubs, Incorporated, in the District of Columbia" provides, in pertinent part, as follows:

"That the real estate described as lots numbered 825 and 837, in square numbered 159 (excluding therefrom that part of lot numbered 825 lying south of a line from the southernmost portion of the main building running west to the wall), situated in the city of Washington, D. C., owned by the General Federation of Womens Clubs, Incorporated, is hereby exempt from all taxation so long as the same is owned and occupied by the General Federation of Womens Clubs, Incorporated, and is not used for commercial purposes, subject to the provisions of section 2, 3, and 5 of the Act entitled 'An Act to define the real property exempt from taxation in the District of Columbia', approved December 24, 1942 (56 Stat. 1091; D. C. Code, secs. 47-801b, 47-801c, and 47-801e)."

Article I, Section 7, Clause 2 of the Constitution of the United States provides, in pertinent part, as follows:

"Clause 2. * * *If any Bill shall not be returned by the President within ten Days (Sundays excepted) after it shall have been presented to him, the Same shall be a Law, in like Manner as if he had signed it, unless the Congress by their Adjournment prevent its Return, in which Case it shall not be a Law."

Section 47-101, D. C. Code, 1951 (Act of the Legislative Assembly of August 22, 1871, ch. 65) provides:

"The fiscal year of the District of Columbia shall commence on the first day of July in each and every year until otherwise provided by law."

Section 47-709, D. C. Code, 1951, Supp. V (Act of August 14, 1894, 28 Stat. 282, ch. 287, as amended) provides, in pertinent part, as follows:

*valuation
app. used not later
than July 1*

"* * *The valuation of said real property made and equalized as aforesaid shall be approved by the Commissioners not later than July 1, annually, and when approved by the Commissioners shall constitute the basis of taxation for the next succeeding year. * * *"

STATEMENT OF POINTS

The District of Columbia Tax Court erred as a matter of law:

(1) In holding that Private Law 737 - 84th Congress, Chapter 506 approved July 2, 1956, was effective to grant tax exemption to respondent's real property for the fiscal year commencing July 1, 1956 and ending June 30, 1957.

(2) In holding that Sunday, July 1, 1956 was a dies non, and that, in law, Monday, July 2, 1956, was the first day of the taxable year.

SUMMARY OF ARGUMENT

Private Law 737 was not effective to grant respondent an exemption from its real property taxes for the fiscal year commencing July 1, 1956, and ending June 30, 1957, because:

1. In the absence of an indication of congressional intent to the contrary, the status of property as to liability for, or exemption from, taxation remains throughout the tax year as it was at the beginning of such year. Here, respondent's property was in a taxable status as of July 1, 1956, its valuation for real property tax purposes having been approved by the Commissioners, D.C. on June 19, 1956. Nothing intervened during the period following the approval of the tax rolls up to and including the date fixed by statute for the commencement of the tax year, to alter respondent's tax status.

2. Private Law 737 was not approved by the President until

July 2, 1956, that is, until after the commencement of the fiscal year involved. It is not by its terms retroactive, nor does it provide for the abatement of respondent's tax liability for the fiscal year 1956-1957.

Consequently, and in accordance with the well established rule of statutory construction that unless expressly stated otherwise, a statute must be construed to be prospective in its operation and effect, Private Law 737 cannot be said to effect any change in respondent's tax status so far as the fiscal year July 1, 1956 to June 30, 1957 is concerned.

3. Congress is presumed to have knowledge of its prior enactments providing for the assessment and taxation of real property in the District of Columbia and that the Commissioners of the District are required by statute (Section 47-709, D. C. Code, 1951) to fix the basis of taxation not later than July first of each and every year. It follows that had Congress, being aware of the assessment statutes and procedures in force in the District of Columbia, intended to exempt respondent's property for the fiscal year involved here, or to abate any existing tax liability, it would have said so. It did not. Consequently, Private Law 737 must be applied prospectively. It is not effective to abate respondent's tax liability for the period here in question. Statutes exempting property from taxation must be strictly construed against the taxpayer.

The fiscal year of the District of Columbia is a creature of statute. Section 47-101, D. C. Code, 1951, states specifically that

the fiscal year shall commence on the first day of July in each and every year. Accordingly, Sunday, July 1, 1956, was the first day of the fiscal year 1957. The Tax Court's ruling that because July 1, 1956, fell on a Sunday, the fiscal year commenced on Monday, July 2, 1956, is unsupported in law. No authority exists for deferring the commencement of such a statutory period.

ARGUMENT

I

Respondent is not entitled, under Private Law 737, to exemption from real property taxation for the fiscal year 1956-1957.

Section 47-709, D. C. Code, 1951, Supp. V, provides, in pertinent part, as follows:

"* * *The valuation of said real property made and equalized as aforesaid shall be approved by the Commissioners not later than July 1, annually, and when approved by the Commissioners shall constitute the basis of taxation for the next succeeding year * * *".
(Underscoring supplied.)

In this case it is undisputed that the Commissioners approved the equalized valuations of real property in the District of Columbia on June 19, 1956, well in advance of the statutory deadline. Consequently, and because as this Court stated in Congregational Home of the District of Columbia v. District of Columbia, 92 U.S. App. D.C. 73, 76, 202 F. 2d 808:

"* * *once they [the Commissioners of the District of Columbia] have approved the equalized valuations of real estate subject to taxation, those valuations 'constitute the basis of taxation for the next succeeding year.' Taxability has then been finally determined, assessment has been completed, and the Commissioners have no further function except to fix a tax rate which will raise the required revenue.", (1)

respondent's property was, as of June 19, 1956, in a taxable status and that status remained unchanged up to and including July 1, 1956, the first day of the fiscal year here in question. At that time, respondent's liability for the taxes here involved became fixed for, as the Board of Tax Appeals (now the District of Columbia Tax Court) held in Washington Mosque Foundation Inc. v. District of Columbia, 74 W.L.R. 1189:

No change in status
"* * *In the absence of indication of legislative intent to the contrary, the status of property as to liability for, or exemption from, taxation remains throughout the tax year as it was at the beginning of each year unaffected by a change in the use of the property during the tax year.* * *". (2)

Respondent is, therefore, liable for the taxes assessed in this case unless Private Law 737 operated to exempt the property in question for the fiscal year 1956-1957.

(1) This principle is reiterated by this Court in Trustees of St. Paul Methodist Episcopal Church South v. District of Columbia, 94 U.S. App. D.C. 78, 81, 212 F. 2d 244, decided in 1954.

(2) Cited by the Board of Tax Appeals in support of its ruling are: Beckwill Realty Corporation v. New York, 254 N.Y. 425, 173 N.E. 570; Wildberger v. Shaw, 84 Miss. 442; 36 So. 639; Martin Company v. Drake, 40 Minn. 137, 41 N.W. 942; Mayor of Baltimore v. Jenkins, 96 Md. 192, 53 A. 930.

The President approved Private Law 737 on July 2, 1956. The Act is not by its terms retroactive, nor does it provide for the abatement of respondent's real property tax liability for the fiscal year here in question. The record is silent concerning the circumstances surrounding its passage by Congress, and nothing in the Act itself justifies giving it anything other than a prospective operation and effect. To do otherwise is to cause totally unnecessary damage to thoroughly settled doctrines of statutory construction.

It is a fundamental rule that in the absence of any provision to the contrary, an Act of Congress generally goes into effect on its passage. 82 C.J.S. 973. Further, it is a Constitutional tenet that the earliest moment at which such an act can be effective is from the time of its approval by the President. Article I, Section 7, Clause 2, Constitution of the United States, Burgess v. Salmon, 97 U.S. 381, 383, 24 L. Ed. 1104, Bristol Mfg. Corporation v. United States, Ct. Cl., 2 F. Supp. 781. Private Law 737 was approved July 2, 1956, and there can be no doubt that it became effective as of that day and not earlier.

In White v. United States, 191 U.S. 545, 552, 24 S. Ct. 171, 48 L. Ed. 295, the Supreme Court stated:

"* * *Where it is claimed that a law is to have a retrospective operation, such must be clearly the intention, evidenced in the law and its purposes, or the court will presume that the lawmaking power is acting for the future only, and not for the past; * * * Retrospective legislation is not favored. * * *".

To like effect see: Cameron v. United States, 231 U.S. 710, 34 S. Ct. 244, 58 L. Ed. 448; Claridge Apartments Co. v. Commissioner of Internal Revenue, 323 U.S. 141, 65 S. Ct. 176, 89 L. Ed. 139, Reynolds v. United States, 292 U.S. 443, 54 S. Ct. 800, 78 L. Ed. 1353. And in Cox v. Hart, 260 U.S. 427, 43 S. Ct. 154, 67 L. Ed. 332, the Court held that all statutes are to be considered prospective unless their language is expressly to the contrary, or there is a necessary implication to that effect.

Here, the statute in question is silent on the matter of its operation and effect, and the record reveals no basis for any implication that it be construed retrospectively. Instead, there is strong reason to the contrary.

In the body of the Act, Congress refers to sections 2, 3, and 5 of the act entitled "An Act to define the real property exempt from taxation in the District of Columbia", approved December 24, 1942 (56 Stat. 1091; Sections 47-801b, 47-801c, and 47-801e, D. C. Code, 1951). Although the substance of the particular reference is immaterial for present purposes, the reference itself indicates clearly that in enacting Private Law 737, Congress was well aware of its prior enactments relating to the taxation of real property in the District. Congress is presumed to have such knowledge. It follows that Congress was alert to the provisions of Section 47-709, D. C. Code, 1951 and to this Court's interpretation of that section in The Congregational Home and Trustees of St. Paul Methodist Episcopal Church South cases, supra. If it had intended

to do so, Congress would have specifically provided for the abatement of the taxes here in question. (3) And in the absence of such specific abatement Private Law 737 must be regarded as prospective in operation. It can have no effect upon respondent's liability for the taxes here involved. In the interest of sound tax policy, and having regard for the interest of the tax-paying community, exemption statutes such as Private Law 737 must be strictly construed against the claimant and in favor of the taxing authority. Phoenix Fire and Marine Ins. Co. v. Tennessee, 161 U.S. 174, 16 S. Ct. 471, 40 L. Ed. 660; Washington Chapter of the American Institute of Banking v. District of Columbia, 92 U. S. App. D.C. 139, 203 F. 2d 68.

(3) It is significant to note that in several special exemption bills now pending before the Congress such as H.R. 4874, a bill to amend the Act of July 2, 1956, entitled "An Act to exempt from taxation certain property of the Columbia Historical Society in the District of Columbia", specific provision is made for the abatement of taxes levied or assessed, and not paid at the time of the approval of the Act, as follows:

"Sec. 3. Every Federal or District of Columbia tax of any kind not paid at the time of the approval of this Act, heretofore levied or assessed against said Columbia Historical Society, or against any property, real or personal, owned by it, or in respect of any property, real or personal, conveyed, devised, or bequeathed to said society, together with any interest or penalty thereon, is hereby abated."

II

The fiscal year 1957 commenced on Sunday,
July 1, 1956, and not, as the Tax Court
held, on Monday, July 2, 1956.

Section 47-101, D. C. Code, 1951, provides specifically as follows:

"The fiscal year of the District of Columbia shall commence on the first day of July in each and every year until otherwise provided by law." (Underscoring supplied.)

Its purpose is to establish a date certain, a fixed point in time for the fiscal operations of the District of Columbia Government. The interests of both the taxpayer generally and the taxing authority demand that such a date be absolutely fixed, for when, as here, such a date is sought to be made movable to suit the momentary convenience of a particular taxpayer, a measure of uncertainty is introduced into an area in which precision as to time is fundamentally imperative.

What the Tax Court has done in this case is, in effect, to add to the statute the words "provided that where the first day of July occurs on a Sunday, the fiscal year shall commence on the regular business day next following". No authority exists for such a modification of so basic a statute. In its opinion, that Court relies upon a line of cases including Street v. United States, 133 U.S. 299, 10 S. Ct. 309, 33 L. Ed. 631 and Sherwood Brothers Inc. v. District of Columbia, 72 U.S. App. D.C. 155, 113 F. 2d 162. It admits that the rule there enunciated has reference to instances in which the final date set for the taking of a particular action falls on a

July 1st, the first day of such a period falls on a Sunday. Could Seal the Bill.
b, The first day of fiscal 56 - 7

Sunday, but the Court then proceeds to invert the rule so that it may apply where the first day of such a period falls on a Sunday. In this case, however, we are not concerned with a time limitation upon the doing of an act. Instead, we are confronted with an attempt to defer the commencement of a fixed statutory period, the fiscal year of the District of Columbia. Counsel for petitioner have been unable to find any legal precedent for such a deferment.

Finally, in the course of the proceedings below, respondent stated that Private Law 737 was sent to the President on June 25, 1956. Consequently, the President had until July 6, 1956, to act on the legislation. It is clear, therefore, that the rule of the Sherwood Brothers case, supra, could have no application in respect to the time limited by Article I, Section 7, Clause 2 of the Constitution of the United States for action by the President. The Act was approved on July 2, 1956, well in advance of the constitutional deadline.

CONCLUSION

The taxable status of respondent's real property became fixed as of July 1, 1956. Private Law 737 was approved on July 2, 1956, and must, in accordance with settled doctrines of statutory construction, especially applicable to tax exemption statutes, be given a prospective effect. No authority exists for the deferment of the commencement of the tax year. The decision of the District of Columbia Tax Court should

be reversed.

Respectfully submitted,

CHESTER H. GRAY,
Corporation Counsel, D.C.,
MILTON D. KORMAN,
Principal Assistant Corporation
Counsel, D.C.,
HENRY E. WIXON,
Assistant Corporation Counsel, D.C.,
OWEN J. MALONE,
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District Building,
Washington 4, D. C.

JOINT APPENDIX

**IN THE
UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA CIRCUIT**

No. 13, 736

DISTRICT OF COLUMBIA, Petitioner,

v.

**GENERAL FEDERATION OF WOMEN'S CLUBS,
INCORPORATED, Respondent.**

**ON PETITION FOR REVIEW OF A DECISION OF
THE DISTRICT OF COLUMBIA TAX COURT**

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FINDINGS OF FACT AND OPINION

The real property of the petitioner was assessed a real estate tax, of which the petitioner complains. It contends that by an Act of Congress its real property is exempt from taxation for the fiscal year here involved.

Findings of Fact

1. The petitioner is a District of Columbia corporation, with its office at 1734 N Street, Northwest, Washington, D. C.

2. The petitioner is the owner of a parcel of real estate located in the City of Washington, District of Columbia, consisting of a part of Lot 825 and Lot 837 in Square 159.

3. By Private Law 737 - 84th Congress, Chapter 506 - 2d Session (H. R. 8493) approved on Monday, July 2, 1956, the aforesaid real property of the petitioner was exempt from taxation in the District of Columbia.

4. For the fiscal year ended June 30, 1956, and for the fiscal years prior thereto the aforesaid real property was assessed real estate taxes.

5. On June 19, 1956, the Board of Commissioners of the District of Columbia approved the equalized valuations of real estate, including the aforesaid real estate of the petitioner.

39 6(a). On July 18, 1956, the Assessor of the District of Columbia wrote to the petitioner the letter following:

"General Federation of Women's Clubs, Inc.,
1734 N Street N. W.
Washington, D. C.

"Dear Madam:

"Private Law 737 - 84th Congress, approved July 2, 1956, provides for the exemption from real estate taxes, certain property in the District of Columbia and owned by the Federation, namely, part of Lot 825 and all of Lot 837 in Square 159. The records in this office have been noted accordingly.

"Inasmuch as the above law was not approved until July 2, 1956, the property was in a taxable status as of July 1, 1956, the beginning of the tax year, and therefore the exemption does not become effective until July 1, 1957. Bills for the fiscal year 1957 will be rendered in the usual manner and are payable one half in September and one half the following March.

"Very truly yours,

S/ James L. Martin
Assessor, D. C."

(b) Thereafter, on or about September 1, 1956, the Assessor rendered and sent to the petitioner notice of assessment of real estate taxes for the fiscal year commencing on July 1, 1956, and ending on June 30, 1957, as follows:

On part of Lot 825, Square 159	\$1, 252.48
On Lot 837, Square 159	346.58
Total	<u>\$1, 599.06</u>

(c) Such tax has not been paid.

7. This proceeding was filed on September 27, 1956.

Opinion

The sole question here presented is whether an act of Congress exempting the petitioner's real property from taxation in the District of Columbia, approved on July 2, 1956, was effective to accomplish such purpose in respect to the fiscal year commencing July 1, 1956, and ending on June 30, 1957.

40 Apparently, the petitioner's officer or agent communicated with the Assessor sometime prior to July 18, 1956, either requesting or concerning exemption of its' property, because on that day the Assessor replied and informed the petitioner that the property would be taxed, regardless of the Act of Congress for the expressed reason that it was not approved until July 2, 1956, and that since the status of the petitioner's property was taxable on July 1, 1956, such status would continue until June 30, 1957.

In its' brief the respondent relies upon an additional ground to support the assessment. It is this: the Commissioners on June 19, 1956, approved the equalized valuations of real estate in the District, including the petitioner's property, and nothing that occurred thereafter could affect the taxability of the petitioner's property, - not even an act of Congress. In taking such position the respondent relies on Section 47-709, D. C. Code, 1951 Edition, and upon the opinion of the United States Court of Appeals in Congregational Home v. District of

Columbia, 92 U.S. App. D.C., 73, 202 F. 2d 808. The Court does not believe that such authorities are effective for the denial of exemption in this case. Section 47-709 of the Code merely provides that when the valuations of real estate have been approved they shall be the basis upon which the taxes are to be assessed and the figures to which the rate of taxation is to be applied. As the Court reads the Congregational Home case it lays down the rule that the Commissioners are to approve the valuation of real estate, and that, inferentially at least, in the process they have the right to grant exemption, and that when they have acted their functions are completed, and, what was really pertinent and important in that case, that the Commissioners cannot grant exemption after they have acted or, certainly, not after July 1, 1956. It seems to the Court that the respondent reads too much in contending that the Congregational Home case supports the principle or rule that the approval by the Commissioners of the valuations made by the Assistant Assessor destroyed the power of Congress to exempt the petitioner's property, even when the exempting legislation is approved prior to, or at the beginning of the fiscal year involved.⁽¹⁾

The other ground for taxability advanced by the respondent's counsel and by the Assessor in his letter of July 18, 1956, is that since the

(1) It was the contention of counsel for the respondent in oral argument that, even if the act of Congress here under consideration had been

exempting statute was not approved by the President until July 2, 1956, it could not be said that the property was exempt on the tax day or the first day of the taxable year. There is then invoked the general rule that the status of the property for the entire taxable year is to be determined by what it was on the first day thereof. Washington Mosque Foundation, Inc. v. District of Columbia, 74 W.L.R. 1189. The fact is, however, that July 1, 1956, was Sunday, and that the Act of Congress exempting the petitioner's real property was approved by the President on Monday, July 2, 1956. The Court is of the opinion that the legislation thus approved was effective to grant exemption to the petitioner's property for the succeeding fiscal year ending June 30, 1957. Sunday, July 1, 1956, was a dies non. In law Monday, July 2, was the first day of the taxable year. Sherwood Bros. Inc. v. District of Columbia, 72 App. D.C. 155, 113 F. 2d 162; Street v. United States, 133 U.S. 299, 10 S. Ct. 309, 33 L. Ed. 631; Monroe Cattle Co. v. Becker, 147 U.S. 47, 13 S. Ct. 217, 37 L. Ed. 72. Wayne v. Burke, 61 A. 2d 714; Willis v. George Washington Life Ins. Co., 112 A. 2d 240. While it is true that in the cases cited the Sunday that was held to be a dies non occurred at the end of the particular period, the Court can see no reason why a Sunday at the beginning of a taxable period should not be so held. To hold otherwise in this case would, in the opinion of this Court be a miscarriage of justice and a

(1)(Cont'd) approved after June 19, but before June 30, 1956, the petitioner's real property would, nevertheless, be taxable for the fiscal year ending June 30, 1957.

thwarting of the intention of Congress.

42 For the reasons stated the Court holds that a real estate tax for the fiscal year ending June 30, 1957, in the amount of \$1,252.48, assessed against part of Lot 825 in Square 159, Washington, D.C., belonging to the petitioner, and a like tax in the amount of \$346.58, assessed against Lot 837 in Square 159, Washington, D.C., belonging to the petitioner, were erroneously assessed; and that such assessments are hereby cancelled.

Decision will be entered for the petitioner.

/s/Jo. V. Morgan
Jo. V. Morgan,
Judge.

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43 FILED JAN 2 1957

DISTRICT OF COLUMBIA TAX COURT

DECISION

This proceeding came on to be heard upon the petition filed herein; and upon consideration thereof, and of the evidence adduced at the hearing on said petition, it is by the Court, this 2nd day of January, 1957,

ADJUDGED AND DETERMINED, that a real estate tax for the fiscal year ending June 30, 1957, in the amount of \$1,252.48, assessed against part of Lot 825 in Square 159, Washington, D.C., belonging to the petitioner, and a like tax in the amount of \$346.58, assessed against Lot 837 in Square 159, Washington, D.C., belonging to the petitioner,

were erroneously assessed; and that such assessments are hereby cancelled.

/s/Jo. V. Morgan
Jo. V. Morgan,
Judge.

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EXCERPTS FROM THE TRANSCRIPT OF PROCEEDINGS

33 THE COURT: Let's suppose this bill had been signed on June 27th, for instance. Is it your contention that that could not have affected the assessment, that the property would still have been liable for the fiscal year beginning July 1, 1956?

MR. WIXON: It might well be, unless the Act of Congress specifically referred to that particular fiscal year, because presumably the Congress would know about the finality of the assessments of real estate taxes. The Court of Appeals has held that they are a finality and cannot be changed. I don't deny of course the authority of the Congress to change
34 such a thing, but in the posture of the matter as you put it to me, I think it would be a very good question as to whether or not it was affected.

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44 FILED JAN 28 1957

DISTRICT OF COLUMBIA TAX COURT

PETITION FOR REVIEW OF A DECISION OF THE DISTRICT
OF COLUMBIA TAX COURT

To the Honorable Chief Judge and Circuit Judges of the United States
Court of Appeals for the District of Columbia Circuit:

1. The District of Columbia, a municipal corporation, petitions for review by the United States Court of Appeals for the District of Columbia Circuit, of the decision of the District of Columbia Tax Court made in the above-entitled proceedings.

2. The decision of which review is sought cancelled an assessment of District of Columbia real property taxes for the fiscal year 1957 in the amount of \$1599.06.

3. The decision of the District of Columbia Tax Court was entered on January 2, 1957.

*

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DOCKET

Date	Proceedings	Memorandum
1956		
Sept. 27	Petition filed. Taxpayer served. Copies mailed to Corporation Counsel and Assessor, D.C.	Real Estate Tax
Oct. 30	Hearing set for Nov. 26. All parties notified.	
Nov. 26	Case continued to Nov. 30.	
Nov. 30	Hearing - Henry E. Wixon representing District.	
Dec. 6	Petitioner's memorandum. Corporation Counsel served.	
Dec. 14	Brief filed by respondent - certificate of service.	
1957		
Jan. 2	Findings of Fact, Opinion and Decision.	
Jan. 28	Petition for Review filed by District - Certificate	

of service.

Feb. 6

Statement of Points and Designation of Record
Certificate of Service.

BRIEF FOR RESPONDENT

IN THE **193**
United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA ~~CIRCUIT~~ *Court of Appeals*
For the
District of Columbia Circuit

No. 13,736 **FILED** MAY 28 1957

—
DISTRICT OF COLUMBIA, *Petitioner,*

Joseph W. Stewart
CLERK

v.

GENERAL FEDERATION OF WOMEN'S CLUBS, INC.,
Respondent.

—
On Petition for Review of an Order of the
District of Columbia Tax Court

—
HENRY M. FOWLER,
LESLIE B. WRIGHT,
Attorneys for Respondent,
1133 Investment Building,
Washington 5, D. C.

QUESTION PRESENTED

Whether action of the Commissioners of the District of Columbia in approving real property valuations of taxes assessed against property of General Federation of Women's Clubs, Incorporated, in the District of Columbia supersedes Act of Congress exempting said property from all taxation.

Whether Private Law 737—84th Congress, ch. 506 entitled "An Act to exempt from taxation certain property of the General Federation of Women's Clubs, Incorporated, in the District of Columbia" approved July 2, 1956, was effective to accomplish such purpose in respect to the fiscal year commencing July 1, 1956 and ending June 30, 1957.

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IN THE
United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 13,736

DISTRICT OF COLUMBIA, *Petitioner,*

v.

GENERAL FEDERATION OF WOMEN'S CLUBS, INC.,
Respondent.

**On Petition for Review of an Order of the
District of Columbia Tax Court**

BRIEF FOR RESPONDENT

COUNTER STATEMENT OF THE CASE

This is a proceeding to review a decision of the District of Columbia Tax Court holding that a real property tax in the amount of \$1,599.06 was erroneously assessed against respondent, and ordering a cancellation of such assessment. (J.A. 1).

The respondent is a non profit educational and philanthropic organization and owns and occupies as its headquarters part of Lot 825 and all of Lot 837 in Square 159 in the District of Columbia.

On June 19, 1956, the Board of Commissioners for the District of Columbia, approved the equalized valuations of real property in the District of Columbia, including respondent's property, for the fiscal year commencing July 1, 1956 and ending June 30, 1957. (J.A. 1).

H.R. 8493, known as Private Law 737—84th Congress, Ch. 506, was passed by the House of Representatives on March 26, 1956 and by the U. S. Senate on June 20, 1956 and approved by the President on July 2, 1956.

July 1, 1956 was a Sunday. The following day, Monday, July 2, 1956, Private Law 737—84th Congress, ch. 506, was signed and approved by the President. This law specifically exempts the real property of the respondent, General Federation of Women's Clubs, Inc., from all real property taxation so long as it is owned and occupied by respondent and is not used for commercial purposes.

Notwithstanding Private Law 737—84th Congress, Ch. 506, exempting respondent's property, the Assessor for the District of Columbia advised respondent, by letter dated July 18, 1956, that inasmuch as Private Law 737 was not approved by the President until July 2, 1956, the real property of respondent was in a taxable status as of the commencement of the fiscal year July 1, 1956 and ending June 30, 1957 and that the exemption provided by Private Law 737 did not become effective until July 1, 1957, and consequently, tax bills for the fiscal year July 1, 1956—June 30, 1957 would be rendered in the usual manner. (J.A. 1-2).

Accordingly, on or about September 1, 1956, the Assessor rendered and sent respondent notice of assessment of the real property tax here involved for the fiscal year commencing on July 1, 1956 and ending June 30, 1957 (J.A. 2).

On September 27, 1956 respondent filed its petition in the District of Columbia Tax Court requesting relief from the real property taxes assessed (J.A. 8), and on January 2, 1957, the Tax Court held that Private Law 737 was effective to grant respondent an exemption from all real property taxation in respect of its property for the fiscal year July 1, 1956 to June 30, 1957. Accordingly the Tax Court entered an order cancelling the assessments (J.A. 6).

STATUTE INVOLVED

Private Law 737—84th Congress, Chapter 506 approved July 2, 1956, entitled "An Act To exempt from taxation certain property of the General Federation of Women's Clubs, Incorporated, in the District of Columbia" which provides as follows:

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the real estate described as lots numbered 825 and 837, in Square numbered 159 (excluding therefrom that part of lot numbered 825 lying south of a line from the southernmost portion of the main building running west to the wall), situated in the city of Washington, D. C., owned by the General Federation of Womens Clubs, Incorporated, is hereby exempt from all taxation so long as the same is owned and occupied by the General Federation of Womens Clubs, Incorporated, and is not used for commercial purposes, subject to the provisions of section 2, 3, and 5 of the Act entitled 'An Act to define the real property exempt from taxation in the District of Columbia', approved December 24, 1942 (56 Stat. 1091; D.C. Code, secs. 47-801c, and 47-801e)".

SUMMARY OF ARGUMENT

Private Law 737 was immediately effective to grant respondent exemption from all real property taxation for the fiscal year commencing July 1, 1956 and ending June 30, 1957.

The District of Columbia Tax Court was correct in its findings that the real property of respondent was exempt from its real property taxes for the fiscal year commencing July 1, 1956 and ending June 30, 1957, and that taxes assessed against respondent were erroneously assessed and ordering that said assessments be cancelled.

Sunday July 1, 1956 was a dies non and the signing and approving of Private Law 737 by the President on Monday, July 2, 1956, without question made the law effective to exempt the respondent from the erroneous assessment of taxes made by the Assessor of the District of Columbia for the fiscal year beginning July 1, 1956 and ending June 30, 1957.

No action of or by the Commissioners of the District of Columbia in approving real estate valuations on respondent's real property would be effective to destroy the power of Congress by its Act exempting respondent's property from all taxation.

ARGUMENT

Respondent is entitled, under Private Law 737, 84th Congress, Chapter 506—2d Session, to exemption from all real property taxation for the fiscal year July 1, 1956-June 30, 1957

Petitioner predicates its whole case and argument on the premise that due to the fact the Commissioners of the District of Columbia approved the equalized valuations of real property in the District of Columbia on June 19, 1956 for the fiscal year commencing July 1, 1956 and ending June 30, 1957, and that the assessments of real estate are a finality, Congress had no power to exempt respondent from taxation by its Act approved by the President on July 2, 1956.

Congress by its Act, Private Law 737, said in unequivocal words, "That the real estate described as lots 825 and 837, in square numbered 159 (excluding therefrom that part of lot numbered 825 lying south of a line from the southern-

most portion of the main building running west to the wall) situated in Washington, D. C., owned by the General Federation of Women's Clubs, Inc., is hereby exempt from all taxation so long as the same is owned and occupied by the General Federation of Women's Clubs, Inc., and is not used for commercial purposes * * * ''.

This Act was approved by the President on July 2, 1956. Can it be argued by petitioner that the Commissioners of the District of Columbia can ignore this Act and assess respondent for taxes for a whole year subsequent thereto? No.

We are not concerned with looking at this case in a prospective or retrospective light. The fact remains that Congress plainly said that the General Federation of Women's Clubs, Inc., are exempt from all taxation. Can there be any doubt about that? No.

Can it be said that any action by the Commissioners of the District of Columbia in approving real property valuations would be effective to destroy the power of Congress to exempt real property from taxation? No. Petitioner stated in its preliminary statement, pages 3-4, "At no time did petitioner, in the presentation of its case to the Tax Court, contend that any action by the Commissioners of the District of Columbia in approving real property valuations would be effective to destroy the power of Congress to exempt real property from taxation".

What did counsel for petitioner say when the Tax Court asked this question: "Let's suppose this bill had been signed on June 27th, for instance. Is it your contention that that could not have affected the assessment, that the property would still have been liable for the fiscal year beginning July 1, 1956?" Mr. Wixon: "* * * I don't deny of course the authority of Congress to change such a thing". (J.A. 7).

Great stress is laid by the petitioners on the fact that the Act is not by its terms retroactive, nor does it pro-

vide for the abatement of respondent's real property tax liability for the fiscal year starting July 1, 1956. And stress is laid upon the fact that the Bill was not signed by the President until Monday, July 2, 1956, one day after the fiscal year started. If this be important, we maintain that the signing of the Bill on Monday, July 2, 1956 by the President would nevertheless exempt respondent from any tax liability which may have been assessed as of July 1, 1956. July 1, 1956 fell on Sunday and was a dies non.

Sec. 47-709, D. C. Code 1951, Supp. V (Act of August 14, 1894, 28 Stat. 282, ch. 287, as amended) provides as follows:

“* * * The valuation of said real property made and equalized as aforesaid shall be approved by the Commissioners not later than July 1, annually, and when approved by the Commissioners shall constitute the basis for taxation for the next succeeding year.”

This section merely states that this shall constitute the basis for taxation. It does not say that Congress cannot exempt one from such taxation.

Congress, in sum and substance in Private Law 737, says notwithstanding the Commissioners' approval of the valuation of taxes to be assessed against the General Federation of Women's Clubs, Inc. that their property is exempt of all taxation.

As to the contention of petitioners that in view of the fact the President did not sign the Act until July 2, 1956 instead of July 1, 1956 the exemption could not apply to valuations approved by the Commissioners for the fiscal year starting July 1, 1956, the principle is well established that intervals of time are to be computed in such manner that Sundays are to be excluded.

Endlich on Statutes, Sec. 393:

The rule, that, where the last of a certain number of days allowed for doing an act falls on Sunday,

the act may be done on the next day, has been by statute, in many states, made a rule of statutory construction, but it appears even without such distinct enactment, to be very generally recognized as such.

In *Street v. U. S.*, 133 U.S. 306, the Court said: "Again it must be noticed that the first day of January was Sunday, that is, a dies non, and a power that may be exercised up to and including a given day of the month may generally, when that day happens to be Sunday, be exercised on the succeeding day."

In *Sherwood Bros., Inc. v. District of Columbia*, 72 App. D.C. 155: Sherwood had 90 days to file claim with the Board of Tax Appeals for refund of taxes paid by Sherwood under protest. The 90th day of the statutory period for filing claim for refund fell on Sunday, and was filed with the Board on Monday. The single question presented was whether petitioner filed its claim for refund within the 90 day period specified by the statute for doing so as a condition of recovering taxes paid under protest. In this case the Court held: "That the act could be done on Monday where the last day upon which it should have been done falls on Sunday".

The Court in the Sherwood case said: "This is the common law rule and it has become embedded in the habits and customs of the community, both from respect for religious considerations and by long-established legal and commercial tradition. Many states have enacted statutes for computation of time, which expressly exclude the final Sunday. The Federal Rules of Civil Procedure, 28 U.S.C.A. following section 723c, do likewise. Rule 6(a). And the only decisions of the Supreme Court bearing on the problem which have come to our attention follow the same rule. *Street v. United States*, 133 U.S. 299, 10 S. Ct. 309, 33 L. Ed. 631; *Monroe Cattle Co. v. Becker*, 147 U.S. 47, 13 S. Ct. 217, 37 L. Ed. 72.

The Court said further in the *Sherwood* case: "It has the support, therefore, of controlling authority, as well as of tradition, fairness and convenience. * * * It does not appear that time is of such essence in regard to these claims that any rightful interest of the Government will be prejudiced by excluding the final Sunday when the last day falls on Sunday. * * * We think also that this construction does no violence to the intention of Congress, but on the contrary more nearly complies with it than would the opposite one".

Monroe Cattle Co. v. Becker, 147 U.S. 47, 13 S. Ct. 217, 37 L. Ed. 72. In this case the Court said: "As the 90th day fell on Sunday, the lands were not open to another application until Monday, the general rule being that, when an act is to be performed within a certain number of days, and the last day falls on Sunday, the person charged with the performance of the act has the following day to comply with his obligation".

In *Wayne v. Burke*, 61 A. 2d 714, a petition was filed to review order of Rent Administrator for the District of Columbia. Motion to dismiss was filed on the ground that said petition was not filed timely. In this case the period for filing expired on August 22, 1948 said day being a Sunday, the petition having been filed on the following day, Monday, August 23, 1948. The Court ruled that Sunday, being a dies non, petitioner was within his rights in filing the petition the following day, Monday.

In *Willis v. George Washington Life Insurance Company*, 112 A. 2d 240, the Court held: "That where ten day period prescribed by rules for filing notice of appeal expired on Sunday, a dies non, notice of such appeal could be filed on the next day, Monday."

CONCLUSION

That Private Law 737—84th Congress, Chapter 506—2nd Session fully exempted respondent's real property from all taxation for the fiscal year commencing July 1, 1956 and ending June 30, 1957 and that the decision of the District of Columbia Tax Court should be affirmed.

Respectfully submitted,

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